

1 O. Shane Balloun, WSBA n° 45053
 2 Balloun Law Professional Corporation
 3 355 Harris Avenue, Suite 201
 4 Bellingham, Washington 98225
 5 (360) 318-7778 | (206) 501-3073
 6 (360) 318-7798 (fax)
 7 o.shane@ballounlaw.com

Attorney for Plaintiff

8 Geoffrey Wm. Steele (*pro hac vice*)
 9 STEELE LAW GROUP, INC.
 10 3021 Citrus Circle, Suite 140
 11 Walnut Creek, California, 94598
 12 (925) 968-3900 | (925) 891-3905 (fax)
 13 steele@steelelawca.com

Jacob P. Freeman, WSBA n° 54123
 SAVITT BRUCE & WILLEY LLP
 1425 4th Avenue, Suite 800
 Seattle, Washington, 98101-2272
 (206) 749-0500 | (206) 749-0600 (fax)
 jfreeman@sbwllp.com

Attorneys for Defendant

12 THE HONORABLE JOHN C. COUGHENOUR

13 UNITED STATES DISTRICT COURT
 14 WESTERN DISTRICT OF WASHINGTON

15 **Larena Hatley**, as an individual, and in her
 16 separate capacity as the assignee and real party
 17 in interest of all *chooses* in action of Chance
 18 Daniels arising out of the same causes of ac-
 19 tion set forth herein,

No. 2:21-cv-00820-JCC

**Joint Stipulated Motion to
 Continue Trial Date for
 Extenuating Circumstances**

PLAINTIFF;

v.

21 **Joyce L. Mullan**, an individual and doing
 22 business as Castlewood Standard Schnauzers,

**NOTE ON MOTION CALENDAR:
 November 14, 2022 (Same Day)**

DEFENDANT.

25 Pursuant to LCR 7(d)(1), 10(g), 16.1, and 40, Plaintiff and Defendant jointly stipulate
 26 to the following motion to continue the trial currently set to begin on December 5—along
 27 with concomitant pretrial filing dates—to later dates for extenuating circumstances.

Although both parties' counsel are ready to proceed with trial, last week they independently learned of two separate extenuating circumstances that substantially impinge on the parties' trial readiness.

First, Defendant Joyce Mullan has been advised by her physician to undergo knee surgery within the next few weeks just in advance of trial. At her age of 75 and her overall physical condition, her physician anticipates a longer-than-normal recovery that will make it difficult for her to travel from San Ramon, California to Seattle to be present for trial as currently scheduled.

Second, Plaintiff's counsel learned on the evening of November 10, 2022, that Plaintiff's prime and only expert witness, Jill Kessler-Miller, has been advised and scheduled by her physician to undergo a surgical procedure on December 6, 2022, to—upon information and belief—insert an epidural catheter to treat chronic primary pain that began in March. December 6 is currently the second day of trial (and the first full day of trial testimony). Although Ms. Kessler-Miller was advised that she should be able to ambulate as of December 7, it seems unreasonable and an unnecessary risk to expect her to be able to travel from her home in Aptos, California to Seattle so soon after surgery—*even assuming* there are no complications. Presuming she could otherwise be scheduled to testify on December 7 during the first half of trial generally available to Plaintiff's witnesses (*i.e.*, the third day of trial and the second full day available for testimony in a 5+ day trial), she would either be required to travel the evening on the day of her surgery or would have to travel early the next morning in the questionable hope of arriving in downtown Seattle with enough time to be examined on direct and cross. The former presents an unnecessary risk to a third-party witness; the latter also potentially presents an unnecessary risk to her and also jeopardizes both parties' rights to substantial justice. Both parties would prefer to examine her under oath not only when she can ambulate, but when she is fully recovered from her surgery and can be reasonably expected to sit at length to testify.

Counsel notified the Court's courtroom deputy (cc: the Court's law clerk) on Veterans Day, Friday, November 11, 2022, of the newly discovered potential for trial non-readiness. See Joint Motion to Continue Trial (No. 2:21-cv-00820) 1 Balloun Law Professional Corporation 355 Harris Avenue, Suite 20

1 LCR 40(b). The Court's law clerk graciously wrote back on the evening of the federal holiday
 2 before the weekend suggesting that we file an expedited stipulated motion to continue trial and
 3 saying we were welcome to also seek continuances of the current outstanding filing dates
 4 given that they had not yet passed (joint motions in *limine** are currently due today, November
 5 14, 2022; LCR 16.1 pretrial order currently due November 21, 2022; Trial briefs, proposed
 6 *voir dire* and jury instructions, and trial exhibits currently due November 29, 2022). He also
 7 stated that the Court's docket was full in January and February and the soonest available
 8 month for trial would be March 2023.

9 *The parties do not otherwise seek continuance to today's due date for joint motions *in*
 10 *limine* brief as the attorneys' joint work on that matter will be complete and filed today.

11 However, for the foregoing reasons, the parties seek continuances of the following events
 12 to the listed corresponding proposed dates:

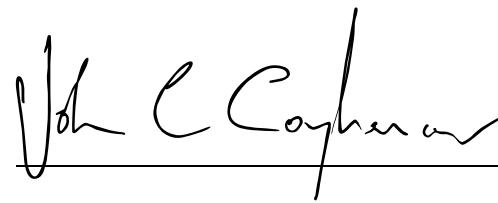
Event	Date as Currently Set (Dkt. # 30)	Proposed Date
LCR 16.1 Pretrial Order due	November 21, 2022	March 13, 2023
Trial briefs, proposed <i>voir dire</i> and jury instructions, and trial exhibits due	November 29, 2022	March 21, 2023
Trial (5+ day) begins	December 5, 2022	March 27, 2023

21 **Endorsement to Stipulation (LCR 10(g))**

22 The Court orders the continuances to the proposed dates as set forth above.

1 IT IS SO ORDERED this 14th day of November 2022.

2
3
4
5
6



John C. Coughenour

UNITED STATES DISTRICT JUDGE

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 | **Respectfully submitted this 14th day of November, 2022.**

2 | **Balloun Law Professional Corporation**

3 | By: /s/ O. Shane Balloun

4 | **O. Shane Balloun (WSBA n° 45053)**

5 | 355 Harris Avenue, Suite 201

6 | Bellingham, Washington 98225

7 | (360) 318-7778 | (206) 501-3073

8 | (360) 318-7798 (fax)

9 | o.shane@ballounlaw.com

10 | **Steele Law Group, Inc.**

11 | By: /s/ Geoffrey Wm. Steele

12 | **Geoffrey Wm. Steele (*pro hac vice*)**

13 | 3021 Citrus Circle, Suite 140

14 | Walnut Creek, California 94598

15 | (925) 968-3900

16 | (925) 891-3905 (fax)

17 | steele@steelelawca.com

18 | **Savitt Bruce & Willey LLP**

19 | By: /s/ Jacob P. Freeman

20 | **Jacob P. Freeman (WSBA n° 54123)**

21 | 1425 4th Avenue, Suite 800

22 | Seattle, Washington 98101-2272

23 | (206) 749-0500

24 | (206) 749-0600 (fax)

25 | jfreeman@sbwllp.com

26 | **Attorney for**

27 | **Plaintiff Larena Hatley**

28 | **Attorneys for**

Joint Motion to Continue Trial
(No. 2:21-cv-00820)